

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

Timothy Engh,)
)
 Plaintiff,) **ORDER ADOPTING REPORT
AND RECOMMENDATION**
)
 vs.) Case No. 4:13-cv-34
)
 LEAM Drilling Systems, LLC,)
)
 Defendant.)

The Plaintiff, Timothy Engh, initiated this Title VII race discrimination action against LEAM Drilling Systems, LLC (“LEAM”) on March 15, 2013. See Docket No. 1. LEAM filed a motion for summary judgment on May 1, 2014. See Docket No. 20. The motion was referred to Magistrate Judge Karen K. Klein for a Report and Recommendation on September 4, 2014. See Docket No. 34. Engh filed a response to the motion on September 11, 2014, and an amended response on September 16, 2014. See Docket Nos. 35 and 37. LEAM filed a reply on October 2, 2014. See Docket No. 40. On December 31, 2014, Judge Klein issued her Report and Recommendation in which she recommended the motion be granted. See Docket No. 41. The parties were initially given until January 19, 2015, to file any objections to the Report and Recommendation. The time for objections was extended until February 9, 2015. Engh filed an objection on February 9, 2015. See Docket No. 50.

The Court has carefully reviewed the Report and Recommendation, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. The Court concludes Judge Klein applied the appropriate legal standards and reached the correct conclusion. Engh failed to demonstrate that he was terminated under circumstances which raise an inference of discrimination and thus he has failed to establish a *prima facie* case race discrimination. In addition,

the evidence adduced by Engh would not permit a reasonable fact finder to conclude LEAM's claim it fired him for poor job performance was a pretext for race discrimination.

Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 41) in its entirety and **GRANTS** the Defendant's motion for summary judgment (Docket No. 20).

IT IS SO ORDERED.

Dated this 24th day of February, 2015.

/s/ Daniel L. Hovland

Daniel L. Hovland, District Judge
United States District Court